

REMARKS

The Office Action dated June 19, 2002 has been carefully considered. Accordingly, the amendments presented herein, taken with the following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

By the present Amendment, claim 1 is amended for a matter of form and to clarify the damage-reducing formulation of the present treating compositions, in accordance with the teachings of the specification. A Version With Markings Showing Changes Made is attached. It is believed that these changes do not involve any introduction of new matter, whereby entry is believed to be in order and is respectfully requested.

In the Office Action, claims 1-14, 16-32, 35-39, 41-53 and 74 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Specifically, the Examiner asserted that recital of the limitation "and/or during and/or" makes it unclear as to whether the treating composition is applied prior, during or after washing the shoes with an aqueous medium.

This rejection is traversed. Claim 1 clearly recites that the treatment composition may be applied at any one, or in any combination of, these three time frames with respect to the washing, whereby the aqueous medium may, but is not required to, contain the treating composition. It is therefore submitted that claim 1 and depending claims 2-14, 16-32, 35-39, 41-53 and 74 are definite in accordance with 35 U.S.C. § 112, second paragraph, and the rejection has been overcome. Reconsideration is respectfully requested.

Claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,767,563 to de Buzzaccarini. The Examiner asserts that de Buzzaccarini teaches a liquid cleaning composition for providing cleaning characteristics on grease/oily soils and inorganic particulate soils as well as shoes,

and comprising surfactants, polyacrylates, alkanol ammonium salts of fatty acids, deterative enzymes, water soluble phosphates, alkaline pH modifiers, optical brighteners and perfumes. The Examiner asserted it would have been obvious to estimate the ratio of water absorption on the shoes and the ratio of the friction between shoes and to include instructions for use.

However, Applicants submit that the treating compositions defined by claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 are nonobvious over and patentably distinguishable from de Buzzaccarini. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

As defined by claim 1, the invention is directed to treating compositions for treating one or more shoes and comprising one or more benefit agents that impart one or more desired benefits to the shoes when the treating composition is applied directly or indirectly to the shoes prior to, during, and/or after washing the shoes with or in an aqueous medium. The treating composition is formulated so that any damage as a result of washing the shoes with or in an aqueous medium with application of the treating composition is reduced as compared to washing the shoes with an aqueous medium without application of the treating composition.

Applicants submit that a person of ordinary skill in the art seeking to solve the problem of safely laundering shoes would not be aided by reference to de Buzzaccarini, which teaches an abrasive-containing scouring cleanser for hard surfaces. Hence, the treatment compositions of the present invention are not obvious in view of de Buzzaccarini.

More particularly, the Examiner asserts that de Buzzaccarini teaches a liquid cleaning composition for shoes. Applicants submit however that de Buzzaccarini, in fact, teaches a composition suitable for hard surfaces, not shoes, as de Buzzaccarini merely indicates shoe polish as a soil which may be removed (col. 2, lines 5-9). The de Buzzaccarini invention

provides an abrasive-containing liquid scouring composition, ill-suited for use on leather or similarly soft shoe material. Applicants find no teaching or suggestion by de Buzzaccarini of a treating composition as presently claimed, formulated so that damage resulting from aqueous washing is reduced with application of the composition. On the contrary, the de Buzzaccarini detergent composition necessarily contains abrasive components, and therefore would not appear to be formulated to achieve damage reduction as is provided by the present composition due to the deleterious effect such abrasives would have on leather, canvas, and other shoe materials. Thus, the treating compositions defined by claim 1 are nonobvious over and patentably distinguishable from de Buzzaccarini whereby the rejection of claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 under 35 U.S.C. § 103 based upon de Buzzaccarini has been overcome. Reconsideration is respectfully requested.

Claims 1-3, 9, 10, 13, 14, 31, 32, 36, 46, 47, 52 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Kitamura et al U.S. Patent No. 5,306,444. The Examiner asserted that Kitamura discloses detergent compositions for shoe cleaner and shoe polish and comprising sterilizers, perfumes, surfactants and oils. The Examiner asserted that it would have been obvious to use the compositions for cleaning leather shoes as Kitamura teaches a leather product detergent for cleaning shoes.

However, Applicants submit that the treating compositions defined by claims 1-3, 9, 10, 13, 14, 31, 32, 36, 46, 47, 52 and 53 are nonobvious over and patentably distinguishable from Kitamura. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

The treating composition defined by claim 1 is discussed in detail above. Importantly, the treating composition is formulated so that any damage as a result of washing the shoes with or in an aqueous medium with application of the treating composition is

reduced as compared to washing the one or more shoes with or in an aqueous medium without application of the treating composition.

Kitamura et al disclose a washing composition for a domestic or business detergent in a skin cleanser containing one or more compounds having a protease inhibitory activity. At column 2, line 51 - column 3, line 11, Kitamura discloses numerous uses for the detergent composition including, inter alia, leather product detergent, she[sic] cleaner, and shoe polish. However, Applicants find no other teaching or suggestion for a treating composition suitable for application to shoes prior to, during and/or after washing in an aqueous medium. While the exemplary teachings of Kitamura are directed to compositions for ameliorating skin irritation effects, Applicants find no teaching or suggestion by Kitamura relating to a treating composition for treating one or more shoes as recited in claim 1, particularly a treating composition formulated so that any damage as a result of washing the shoes with or in an aqueous medium with application of the treating compositions is reduced as compared with washing the shoes with or in an aqueous medium without application of the treating composition.

In order to render a claimed invention obvious, the prior art must enable one skilled in the art to make and use the claimed invention, *Motorola, Inc. v. Interdigital Tech. Corp.*, 43 U.S.P.Q.2d 1481, 1489 (Fed. Cir. 1997). In view of the failure of Kitamura to teach or suggest a treating composition formulated as required by present claim 1, the mere reference by Kitamura to detergents for leather products, shoes or shoe polish does not enable one of ordinary skill in the art to make and use the present claimed treating compositions. Thus, Kitamura does not render the presently claimed invention obvious. It is therefore submitted that the treating compositions defined by claims 1-3, 9, 10, 13, 14, 31, 32, 36, 46, 47, 52 and 53 are nonobvious over and patentably distinguishable from Kitamura, whereby the rejection

under 35 U.S.C. §103 based on Kitamura has been overcome. Reconsideration is respectfully requested.

Claims 1-7 and 9-14 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent. No. 5,431,840 to Soldanski et al. Specifically, the Examiner asserted that Soldanski teaches a cleaning composition suitable for leather shoes and the addition of nonionic surfactants, including alkyl ethoxylates.

However, Applicants submit that the treating compositions of the present invention are not obvious in view of Soldanski and are patentably distinguishable therefrom. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

The treating compositions of claim 1 have been discussed above. Importantly, the treating compositions are formulated so that any damage as a result of washing shoes with or in an aqueous medium with application of the treating composition is reduced as compared with washing the shoes with or in an aqueous medium without application of the treating composition. Applicants find no teaching or suggestion by Soldanski relating to such treating compositions. More particularly, Soldanski et al disclose a process for the production of cleaning and care preparations containing a wax emulsion including alkyl glycoside as emulsifier. While Soldanski discloses that leather care preparations may be based on the wax emulsions and include further care constituents, Applicants find no further teaching or suggestion by Soldanski as to the properties of such care compositions. Particularly, Applicants find no teaching or suggestion by Soldanski of treating compositions as defined in claim 1, particularly formulated so that any damage as a result of washing shoes with or in an aqueous medium with application of the treating composition is reduced as compared to washing the shoes with or in an aqueous medium without application of the treating composition. In fact, Applicants find no teaching by Soldanski relating to the effects of their

compositions with respect to an aqueous washing medium. In view of these deficiencies in the teachings of Soldanski, Soldanski does not enable one skilled in the art to make and use the presently claimed treating composition. Thus, Soldanski does not render the presently claimed compositions obvious. It is therefore submitted that the compositions defined by claims 1-7 and 9-14 are nonobvious over the patentably distinguishable from Soldanski, whereby the rejection under 35 U.S.C. §103 has been overcome. Reconsideration is respectfully requested.

Finally, claims 1 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent no. 5,482,644 to Nguyen. Specifically, the Examiner asserted that Nguyen teaches detergent compositions that bind and remove traces of heavy metals, such as chromium.

However, Applicants submit that the treating compositions defined by claims 1 and 8 are nonobvious over and patentably distinguishable from Nguyen. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

The treating composition of claim 1 has been discussed in detail above. Claim 8 depends from claim 1 and further defines the treating composition as comprising no more than about 30% by weight of the composition of chromium-binding agents that are capable of binding Cr^{3+} with a log K binding constant of more than about 12. Claim 8 limits the amount of chromium-binding agents in order to avoid removing chromium-based tanning materials which may be present in leather-containing shoes.

Applicants find to teaching or suggestion by Nguyen relating to a treating composition as defined in claim 1, particularly formulated to reduce damage resulting from washing of shoes with or in an aqueous medium. While Nguyen discloses detergent compositions for objects ranging from porously soft fabrics to rigidly hard materials,

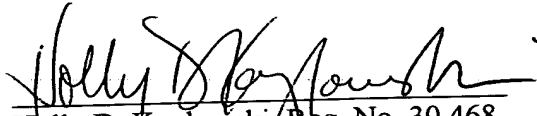
Applicants find no teaching or suggestion by Nguyen for providing the damage reduction required by the present claims.

Nguyen teaches that the detergent composition may comprise a chelating agent for transition metals, including chromium to reduce the presence of heavy metals that pose a risk to the handler of the detergent composition due to their skin-penetrating potential. On the other hand, based on the recognition of chromium as a tanning material that imparts strength and temperature resistance to leather, whereby removal of chromium is undesirable, the composition of claim 8 is adapted to minimize chromium removal. The embodiment of claim 8 addresses the unexpected problem of incidental chromium binding and removal that occurs when agents useful in removing unwanted calcium/magnesium ions also effectively bind and remove transition metal ions, including chromium. Hence, the composition of claim 8 minimizes this unwanted activity by restricting the percent by weight of chelating agents with chromium binding affinity constants of more than about 12. Nguyen fails to consider the negative aspects of chromium removal, and, instead, teaches away from the present inventive composition by advocating detergent compositions that bind and remove all heavy metals, including chromium (see col. 2, lines 30-31). It is error to find obviousness where references diverge from and teach away from the invention at hand. *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988).

It is therefore submitted that the compositions of claims 1 and 8 are nonobvious over and patentably distinguishable from Nguyen, whereby the rejection under 35 U.S.C. §103 based on Nguyen has been overcome. Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the rejections under 35 U.S.C. §§ 103 and 112, second paragraph, and places the present application in condition for allowance. Reconsideration and an early allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly D. Kozlowski", written over a horizontal line.

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VERSION WITH MARKINGS SHOWING CHANGES MADE

Claim 1 is amended as follows:

1. (Amended) A treating composition for treating one or more shoes, said treating composition comprising one or more benefit agents that imparts one or more desired benefits to the one or more shoes when the treating composition is applied directly or indirectly to the one or more shoes prior to, [and/or] during, and/or after washing the one or more [treated] shoes with or in an aqueous medium, wherein said treating composition is formulated so that any damage as a result of washing the one or more shoes with or in an aqueous medium [containing] with application of the treating composition is reduced compared to washing the one or more shoes with or in an aqueous medium [free] without application of the treating composition.